

68134-6

68134-6

NO. 68134-6-I

COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION I

SHAW RAHMAN,

Appellant,

v.

Kari Fogelman, Kristi Patterson, Ken Naethe, Russ Jones, Andrew Wright,  
Kimberly Yeaton, Kimberly Trulson, Larry P Little, The Boeing Company.  
Respondents,

REPLY BRIEF OF Appellant

2012 MAY 21 AM 9:55  
COURT OF APPEALS DIV I  
STATE OF WASHINGTON

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### RULE OF LAW-BLACK LETTER LAW-FOR JUDICIAL DECISION:

RCW 49.12.265; RCW 49.12.265(5);  
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RCW 49.60; 49.60.010 - Purpose of chapter.  
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RCW 192-150-135  
RCW 50.20.066  
Statute of Limitation (U.S.C)  
:“28 U.S.C. Section 1367(d) tolls the limitations period for pendent state law claims during their pendency in  
federal court and for a period of 30 days after they are dismissed, unless State law provides for a longer tolling  
period.” Golden v. CH2M Hill Hanford Group, Inc., CV-04-5076-LRS, 2008 WL 4092920 (E.D. Wash. Aug. 27,  
2008).”  
WAC 192-150-140: 2(a),(b),(c),(d),(e).  
WAC 192-150; WAC 192-150-055(1(a)(b)(c)(i)(ii)), (2),(3), 4((a)(i)(ii)(iii)),4(c))  
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WAC 192-150-085 (1(a) (b)), (2(a),(b)) - How to qualify after  
WAC 192-150-135(1)(2)(3)(4)-Illegal activities at the worksite RCW 50.20.050 (2)(b)(ix).  
WAC 192-150-140(1 (a) thru (d)),(2(a)(b)(c) thru (e)), 3(a thru c)  
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WAC 192-150-210 - Willful or wanton disregard RCW 50.04.294 (1)(a) and (2).  
WAC 192-150-060; WAC 192-150-060(6);RCW 50.20.050 (1)(b)(ii) & (2)(b)(ii).

### Case Law described in pages of brief:

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Bell Atlantic V. Twombly	page 10
Iqbal And Twombly (refers to above two case laws)	page 10
Goodman. v. Boeing Co. 1995.;	page 4
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A. **Introduction** Boeing hired Appellant Shaw Rahman on Feb 16, 2008 and unlawfully terminated acting systematically, repeatedly, illegally, committing several act(s) or action(s) of, unfairness, unfair treatment with unfair intent or motive, that violated WA State defined Law against Discrimination (“LAD”/ RCW 49.60) and its subsections arising from the same “Code” or principles regarded as “nucleus”, when these codes incorporate the “act” or “action” as parts of their elements, to define “discrimination or act of unfairness or unfair intent or motive, any /a pattern of such ” under WA State’s Human Right Commission enforced LAWS, to protect individuals or employee from “any/a” damage (s) based on category, such as: race , religion, retaliation , national origin, with “more emphasis” than it’s federal authority RCW 49.60.030.

**Discrimination** law refers to unfair treatment that is based on a characteristic protected by the federal and state laws, such as age, disability, sex, national origin, race, color, or religious beliefs. (Unfair treatment that LAD protects). To prove discrimination, the plaintiffs thus, (1). As a must, shows actual damage, of various forms. (2). At least a discriminatory motive, by the defendants, (3) And “a” “pattern of unfairness against Plaintiff who shares protected characteristics under LAD. The plaintiff also places the burden of proof on the defendants to produce to the court, unlawful suspension memo, cell phone call records and pertinent email evidence to PROVE that “an unfair treatment or a pattern of treatment with motive or intent did not damaged the plaintiff, in respect to the claims or hypothetical claims stated by the Plaintiff, given that plaintiff presented “substantial evidence, which is evidence sufficient to persuade a fair minded person of the truth of declared premise” . *Smith v. Shannon 1983; Ridgewater Props v. Starbuck 1982*, to legally and sufficiently assert his claims. [For re-application of this case law , it will be referred as: *Smith v. Shannon 1983; Ridgewater Props v. Starbuck 1982*. throughout this literature]. Thus in the absence of demanded evidence above , which defendants refused

to produce, without a subpoena, Plaintiff simply places in front of the court, to contemplate, as a “fair minded person” to evaluate that, (1.) the defendants’ statements “to dismiss the case” and (2.) that “cause of Shaw’s termination was based on insubordination” is plainly “conclusory and legally insufficient” or “deficient”, does not meet “standards of statement of claim”, in considering their deliberate and willful ability to state, statements, without presenting or incorporating “material” “elements” as “sufficient evidence” under *Smith v. Shannon 1983*; *Ridgewater Props v. Starbuck*, and casts serious doubt to be plausible. Like the audience, the Plaintiff is not convinced, at all, either, because of defendants’ flexible pleading standards in deliberate inability and pattern of maneuvering, visible all across this pleading in regards to evidence. Thus court “does not have to credit defendants’ conclusory statements, without reference to its factual context” and SHALL “[does] not give the defendants license to evade” under *Twombly*; Pp 22-23. The definition, of discrimination resides within the scope of the definition of “act(s)” or action(s) in the statutes /code applicable in RCWs, within the boundary of WA State. Any action that violates the elements of “code” defined fairness, within the LAD and RCW 49.60, is a discrimination and discriminatory act In “WA State”. Thus the pleading must be evaluated against “discrimination” & “discriminatory act”, that WA State regards, within its, State’s boundary, that has caused actual damage(s), has “Defendants intent” or any / “a” “discriminatory motive” or “a” “pattern of unfairness” against Plaintiff, who shares protected characteristics under LAD. We hold on to WA State’s RCW definition and interpretation in statements forming the RCWs, as definition of “Discrimination” within the scope of WA State’s jurisdiction to define “unfairness/unfair treatment” or “unfair intent/motive”, since definition of discrimination varies in Federal and State level and among States. The plaintiff also relies the reasoning based on *Smith v. Shannon 1983*; *Ridgewater Props v. Starbuck*

1982.-so that “a fair minded person” can comprehend, realize to understand and discern with reasonable logic, the definition of discrimination and discriminatory act, as juror, to assert and identify, whether a discriminatory act or discrimination or unfairness or unfair treatment, had been committed by the defendant towards plaintiff, violated RCWs and case laws, related to Laws against such discrimination and discriminatory acts. The defendant “continually disregards” Statute described below that is applicable to suffice the question of limitation period of this case which was filed on Oct 13<sup>th</sup> 2011, Plaintiff refer to: “28 U.S.C. Section 1367(d) tolls the limitations period for pendent state law claims during their pendency in federal court and for a period of 30 days after they are dismissed, unless State law provides for a longer tolling period.” Golden v. CH2M Hill Hanford Group, Inc., CV-04-5076-LRS, 2008 WL 4092920 (E.D. Wash. Aug. 27, 2008). The above statute had been presented in the Trial court case on Nov 10<sup>th</sup> 2011 in “Motion To Deny Motion To Dismiss” (attached with initial appeal on Nov 27<sup>th</sup> 2011 at Div1) “to present to the court, that the trial court case was within the limitation period of allowable above Statute. Defendants had discriminated against Shaw in a closely related series of discriminatory acts against him commencing before Aug 8<sup>th</sup> 2008 and earlier beyond that date continuing up to 4/25/2008 as evidence show, in the form of falsification to WA State Economic security [Sub No: 16C:Case 2:11-cv-01338-RSM, Document 7: page 80-83], committing misconducts by falsely denying unemployment benefit, and bringing in burden of lawsuit, causing financial damage, portraying as a high value target in federal proceedings as discrimination, causing workplace harassment in the form of mental and psychological depression on the plaintiff, damaging earnings and scope of career progress, leading towards instability, in a pattern of “Unfairness, Unfair treatment, motive or intent”. Thus defendants caused actual and punitive damages on plaintiff for their continued discrimination. Plaintiff asserts defendants’ discriminatory acts, which had taken place

much earlier, even before illegal suspension that made the plaintiff take resort to LAD, as means of retaliation. Plaintiff also reasserts to hold on to LAD, RCW and Case LAWs, in relevant claims, stated in opening brief & Trial courts case, wherever they had been stated. Defendants completely take these discriminatory acts, out of focus from the audience, before stating and concluding that, Plaintiff's termination was an act of "insubordination" in the opening paragraph of the "dismissal". Thus their statement is appropriately defined as "legally insufficient, exclusive conclusory and unfair", as a result "discriminatory"- thus defendants discrimination is still continuing and not "TIME barred" holding on to , Goodman v. Boeing. In fact, after "lawful" retaliation by the plaintiff, based on protected class preserved under RCW 49.60 and laws against unfair treatment/discrimination, and/or workplace harassment, more unlawful act of discrimination, was committed by defendants, which resulted in Shaw Raman's illegal suspension and termination. Thus, a pattern of unfairness by defendants towards Shaw, resulting in illegal suspension and Unlawful termination, is well established and proven, supported by Facts, Evidence, Hypothetical Claims and formal allegations, that are definitely not "exclusive conclusory statements". Each statement of claim contains in its elements: who, when, how, what act(s) parallel(s) to defined "act(s)/unfairness" within LAD, that is claimed as "discrimination/unfair treatment" holding onto LAD. The defendants acted in collaboration causing work place harassment hostility, repeated unlawful acts, including and not limited to: falsification in suspension memo, denial of presenting suspension memo unless these is a subpoena, lying to WA State's economic security, barring Plaintiff from unemployment benefits, maneuvering, unethically and unlawfully writing corporate corrective memos. Defendants acted in discrimination, while forcing Shaw to accept these untruthful corrective action memos and suspension memo, by preemptively commanding to sing, by force, and by calling him by his given

Muslim name, to portray him as a “Muslim” to instigate with post 9/11 emotions, and collaborate amongst defendants, commanding him to accept unlawful suspension memos as if these are “a managerial direction” on numerous occasions starting on 4/25/2008 which went well into the limitation period, written with, out of statement of work (SOW) statements, with maneuvered sentences, in the form of falsification and lie, placed in front of Shaw, for him to sign. Shaw refrained from signing these untruthful memos, with his religious belief as it would be “wrong doing and wrongful act”. Shaw Rahman is a South East Asian, of Muslim Belief in faith or creed by birth and of origin of a South East Asian country which is not a terrorist listed country. Thus, the cause of action spans, in violation of categories that are protected under LAD of WA State: religion, race, national origin and retaliation, appropriately. The plaintiff clearly and unequivocally claims that the “discriminatory acts by the defendants, have caused any performance expectation that defendants, may portray unmet, even though he has cross performance evaluation criteria by managing to deliver, Capability Su 5.19, Su 5.20, Su 5.23 (Projects Status Reports will prove that from Boeing), Su 5.22 project plans within the, “the then expected”, time line, committed by other project participants and was working on deliverables of these projects, as a Domain or lead project manager, when he was illegally suspended. Su 5.22 was handed over to Boeing HR personal Kim Trulson via email “Protected with password” one day before his illegal suspension which was unexpected to him. Plaintiff claims the following acts of discrimination committed by the defendants, in numerous occasions, listed below, are the result of any performance issue that the defendant portrayed falsely, in WA economic security or other depiction. The acts are discriminatory because they contain (1) a discriminatory motive, (2) and, a pattern of unfairness against Shaw from others who shared Plaintiff’s protected characteristics. Less Favorable Treatment or unfair treatment or intent or

motive against Shaw, included but was not limited to, the following, in violation of LAD, Case Law and WAC in the opening brief. Plaintiff claims the follows, holding on to *Smith v. Shannon 1983*; *Ridgewater Props v. Starbuck 1982*:(1)While Shaw was sick with a reoccurring flu, Kari Fogelman took away Shaw's remote VPN working capability which caused Shaw not to be able communicate properly just as other defendants, under the same protected category, contributed to his performance issue if there any that defendants depict. VPN log can be produced by defendants as burden of proof.(2)Kari Fogelman or defendants NEVER made Shaw Aware of the location of SIP&T guideline, or website of SIP&T guideline if there was any,that was published/gazetted,or have EVER pointed the rules that were reasonable. Shaw acted on his own responsible manner, reasonably, to inform the Employer close to the beginning of the work day.(3)Although Shaw, on the first occurrence of his flu from working with Andrew Wright, and workplace unhealthy condition, "reasonably" contacted his fellow Domain Project Manager at Boeing Norris Harper, or "Employer Boeing", to convey his sick status to Kari Fogelman's backup Kat Fournier, that he will not be able to attend office. This [one] instance even though for all other sick days Shaw contacted Kari Fogelman, her backup Kat Fournier or Trina Goering directly, defendants deliberately show, this "one occurrence" as SIP&T guideline violation. The burden of proof is on the defendants, to produce cell phone call records from Shaw, to Kari Fogelman, Trina Goering and Kat Fournier and produce their call logs from their cell phones for those days. Shaw had provided his record of call while he was sick as he was unable to obtain the cell phone call records from his Boeing cellphone to Kari Fogelman and his backups.(1)Although Shaw had made cell phone calls every day than the one day described above, to inform his employer appropriately, defendants discriminately deny continuously and state that Shaw failed to contact his supervisor per SIP&T

guideline; per page 4 of brief of respondents: “ he had not contacted a back-up manager to advise of his absence’(s)’ [NOT plural meaning once, instance that he directly was unable to contact]. Thus defendants falsely state facts, acting, in discrimination and violation of RCW 49.60 clearly evident in their response, This is a “continuing pattern”. Plaintiff reiterates to the court, for the defendants, to produce the burden of proof, from his Boeing cell phone call records and defendants, where it will show that Kari Fogelman and her backup were contacted to state that Plaintiff was sick. This sick leave is clearly protected under RCW 49.12.265, described in the opening brief.(2) Based on (1) above Kari Fogelman’s written memo while Shaw was sick, which contains maneuvering , falsification in statements in memos, is discriminatory and act of unfairness, unfair treatment with unfair intent or discrimination towards Shaw, infringing protected category under RCW 49.60—clearly shows “defendants discriminatory motive”.(3) The same pattern described in (2) is exhibited in the written memos regarding delegation of task to Hillary Okrent-Grilley. Plaintiff stated in the opening brief that Prior to delegation of responsibility Plaintiff and his supervisor Kari Fogelman had a meeting in Kari Fogelman’s office that Hillary Okrent-Grilley who needed more work hours can have some of the documentation work, regarding project Su 5.21, 5.23 which were not Shaw’s SOW. Plaintiff in order to confirm whether Hillary Okrent-Grilley had been authorized to accept delegated task conducted meeting with Hillary per exhibit, provided in opening brief with claim, when she confirmed she was approved to have delegation by email. EXHIBIT Sub No 16C: case 2:11-cv-01338-RSM Document 7, page 41,42. Plaintiff conducted formal meeting to delegate task , per Kari Fogelman’s approval and informing her in an official manner. Exhibit Sub No 16C: 2:11-cv-01338-RSM, Document 7, page 42,43,44. Thus Kari Fogelman acted in discrimination when she stated in the written corrective action memo that the task that was given to Plaintiff

was delegated, as if the delegation took place without a formal official discussion and without approval, which is contrary to the fact and a lie, falsification and untruthful, therefore unfair and discrimination towards Plaintiff. Thus, the intent of Kari Fogelman had "a discriminatory motive", and, "a pattern of unfairness" against Shaw from others who shared Plaintiff's protected characteristics. Therefore act of discrimination by Kari Fogelman, is presented, in front of the audience, with *Smith v. Shannon 1983; Ridgewater Props v. Starbuck 1982*. Plaintiff affirms, that Kari Fogelman Threatened him to resign, in the meeting where she forced Shaw to sign the falsified corrective action memos she wrote. Shaw opposed, to resign or accept the corrective action memos, by not signing or resigning, as it was against this moral or religious belief as "wrongful act or wrongdoing". Kimberly Yeaton acted in discrimination when she signed to approve, as Kari Fogelman's supervisor, the corrective action memos as a collaborator, to these discriminatory acts described in written corrective action memos, which were "continuing patten of unfairness or unfair treatment or deliberately intended unfair motive/intent" towards Shaw. These acts of discrimination changed the terms and condition of employment of the Plaintiff, from other defendants under the same protected category, under WA State's LAD. (1) Kari Fogelman didn't STOP her discriminatory acts or "discriminatory motive" there, even after, per Boeing HR approval and acting within the scope of Employment, lawfully, Shaw rightfully responded against discrimination towards him, to the Boeing HR. Exhibit Sub No16C: case 2:11-cv-01338-RSM, page 34-37, Defendants continued on. Plaintiff "Claims"/"reasserts", that accepting untruthful memos by signing them to accepting lie and false statement is against his sincere moral and religion belief and would be wrong doing. Thus the plaintiff: "Clearly demonstrates" a "prima facie" case of religious discrimination, as (1) He holds a sincere and genuine religious belief that conflicts with an employment

requirement where he has to sign falsified memos.(2) He's informed his employer, Boeing HR and Kari Fogelman's supervisors, of the conflict as responses in retaliation (3) He's discharged for failing to comply with that conflicting employment requirement where he has to accept these false memos portrayed as "managerial direction" from his supervisor or Employer.Kari Fogelman, Kimberly Truslen, Ken Naethe and Larry P Little, forced Shaw to sign falsified suspension memo which contained statements from,the above written memos and with additional tasks that Plaintiff claims was not in agreement, in the negotiated SOW with Kari Fogelman, at the beginning of the employment, such as Su 5.21 and HLI Project task, as Plaintiff recalls finding in the suspension memo, which he was able to mark with his pen, and which was someone else's SOW. Kari Fogelman /defendants maneuvered and falsified to create "untrue suspension memo" and forced Shaw to sign suspension memo in collaboration with the defendants, described in this paragraph.Plaintiff reassertsagain, that signing untruthful memos by signing them to accepting lie and false statement is against his sincere moral and religion belief and would be wrong doing.Thus he reestablishes a "re occurring pattern of discrimination and a pattern of discriminatory motive in defendants" that violates LAD on the grounds of religion discrimination, protected under RCW

**49.60.Reply to Page 2 Paragraph one-Unemployment insurance LAWS:**The Plaintiff, reassert that defendants maneuver and unlawful act to portray Shaw, in his unfound misconduct, to deny his unemployment benefit, is, infact, a "misconduct by defendants", for falsifications and lie to WA State's economic security, therefore Plaintiff contests utterly, his denial of benefit under RCW 50.20.066 by defendants,claims benefit under nucleus of RCW 50.20; 50.20.010;50.20,010(1)(f), meeting" terms and condition" and claims extended benefit meeting eligibility.Plaintiff reasserts that the defendants committed misconduct under RCW 50.04.294, by violating

RCW 192-150-135, by these action / continuing pattern of falsification, which is “pattern of continued unfairness /discrimination against Plaintiff who share protected characteristics” under LAD, holding on to Goodman v. Boeing, together with Smith v. Shannon 1983; Ridgewater Props v. Starbuck 1982. Plaintiff reasserts he has been discriminated from performance bonus by discriminatory evaluation. **Iqbal And Twombly**: This (*Iqbal V. Ashcroft ; appendix I*) case is inapplicable in this “context” clearly because of the following reasons: (1) It may be applicable to protect high level government official for national security and application of LAW in cases concerning national security. (2) The plaintiff understood that, he had exceeded 300 statute’s limitation, to claim a federal title VII claim, for which he never filed a case in federal court for his federal claim, but was aware WA State’s LAD provide “more emphasis” than its federal authority of title VII, and amended the case at the superior court for REMAND to transfer jurisdiction to superior court, filing and amendment to waive title VII claim in the superior court, which was not transmitted to pertinent case filed by defendant, from superior court to federal court, or for Hon Judge Martinez to remand the case, per Judge’s Amended Order of case 2:11-cv-01338-RSM. The case was pending in superior court while it was amended by the plaintiff with waived title VII claim. (3) Defendants moved to dismiss the case with a geographic diversity and filed a “federal case 2:11-cv-01338-RSM, which has determined to have established merit, on the grounds of discrimination. Per Judge’s amended order, “rising the possibility of claims, for which relief can be granted in a state court”, under WA State’s LAD and with the confirmation of, by the plaintiff, that he has amended the case to waive title VII claim. As a result the re-filed same case, had clearly established merit, in the federal court, as not being an “deficient or conclusory claim” which is “legally insufficient”,

WITH an identification by a federal judge with “a pattern” of “a claim” stated in the amended motion in order. Similar pattern of claims, constituted the complaint re-filed on Oct 13 the 2011 along with hypothetical claims that contain who, how, when, what act of discrimination was perpetrated by the defendant to the plaintiff. Thus an effort to dismiss the federal pleadings, with an out of norm “*Iqbal v. Ashcroft*” [brief attached] to influence a judge for an plaintiff’s inability to state a claim, is out of place in such civil action in this pleadings. None of the defendant is a high level government official, “law makers” or “executioners” to receive immunity from civil action, that does not have any ground for/ concern of national security. In fact, it was their case law application that prompted the plaintiff to file motion of prejudice, to seek justice holding on to the principles of US constitution “Separation of Power”, to seek justice in the presence of an objective jury and presiding judge. Plaintiff also understands that 300 days statute of limitation creates an insuperable bar to state a federal claim in federal court and can be remanded back to a state superior court for protected claim for Laws against discrimination of WA State which gives a bigger time frame. Thus the plaintiff re-filed under above U.S.C code (*see, page 3*), that allows a re-file while a pendant case if dismissed without prejudice under the tolling period set forth: “*Golden v. CH2M Hill Hanford Group, Inc.*, CV-04-5076-LRS, 2008 WL 4092920 (E.D. Wash. Aug. 27, 2008)”. Thus the question of, statute of limitation for a re-file, all throughout the reply brief, of the defendants are mere irrelevant statements. The defendants continued to disregard the fact, that the U.S.C above, enabled the Plaintiff to pursue pleadings under the tolling period of Status of limitation. This same information is placed as answer, throughout the reply, to respond back to the defendants, where ever they continually tried to evade the existence of the U.S.C above, which evidently does not create an insuperable bar towards justice, for a dismissed case without prejudice in federal court, whose merit was being determined

by a federal judge while relevant State Case was pending. In fact, all statement of claims had been written to answer who, what when, how, using IRAC to formulaically recite them legally, to completely form a "Statement of Claim(s)" per legal procedural standards, stating facts, evidence, to be clearly visible and to be plausible on the complaint's face, for the audience, when plaintiff presents these with, *Smith v. Shannon* 1983; *Ridgewater Props v. Starbuck* 1982- As a result the statement of claim are "not mere conclusory statement" which were completely supported with elements of LAD, Case laws, RCW 49.60 & WAC. The Plaintiff asserts and reassert these claims so that they must not be regarded as such "flexible plausibility standard" contrary to *Ashcroft v. Iqbal*, and holds on to the continued discrimination, which is not time barred, holding on *Goodman vs. Boeing*; together with *Smith v. Shannon* 1983; *Ridgewater Props v. Starbuck* 1982. In fact, in adequately stating them, by holding on to *Smith v. Shannon* 1983; *Ridgewater Props v. Starbuck* 1982., -- they are "legally sufficient" to allege defendants' personal involvement in discriminatory act(s), Motive or Intent and continued pattern of such, which, on the face of the complaint are true, and violated clearly LADs established under WA State's human rights commission. Moreover, the plaintiff's claims contain: (1) "Short and plain statement of the claim showing that the pleader is entitled to relief." (2) "[D]etailed factual allegations" supported with evidence, even though "are not required, *Twombly*, 550 U. S., at 555, but" plaintiff states them using (IRAC), and application of LAW i.e LAD and case laws of WA State ", presented appropriately with evidence as " the Rule does call for sufficient factual matter, accepted as true, to "state a claim to relief that is plausible" meeting *Smith v. Shannon* 1983; *Ridgewater Props v. Starbuck* 1982. Thus "A[this/these] claim has /have facial plausibility when the pleaded factual content allows the court to draw the reasonable inference that the defendant(s)

is(are) liable for the misconduct alleged” Id., at 556.,EVEN present in Ashcroft v. Iqbal, and proven to have merit in federal court case 2:11-cv-01338 , on the grounds of discrimination, discriminatory intent or motive and “a” or “at least a” continuing pattern .Thus unlike Twombly, the plaintiff’s cause of actions, are:NOT“mere conclusory statements” supported with *Smith v. Shannon 1983; Ridgewater Props v. Starbuck 1982*. When Hon Judge Martinez identified possibility or rising claims, a pattern of claim, an intent of waiving Plaintiff’s title VII claim, - in (1) “determining whether” only this [ a ] complaint states a plausible claim,”(2) determining if it “ is con-text-specific”, Plaintiff appeals in “requiring the reviewing court to draw on its experience and common sense. Id., at 556.”Twombly.In order to prove that “ because they[claims] are not mere conclusions, are entitled to the assumption of truth” , Plaintiff shifts the burden of proof on the defendants, to produce cellphone call records, as descried earlier along with suspension memo. So that, legal conclusions can provide the complaint’s framework, and they must be supported by factual allegations, with evidence as such.Thus these “are well-pleaded factual allegations,” and “this[ a] court should assume their veracity and then determine whether they plausibly give rise to an entitlement to relief.Pp. 13–16.on its face,”Thus, producing relevant evidence as described above from defendants, will, fully, legally, meet “that inference alone”, if there is any, so far, that ,“would not entitle to relief”.The “context and policy relevancy” of ,Ashcroft V. Iqbal, is not applicable, to this well pleaded case which states elements of cause of action and hypothetical claims, appropriately, which are not “mere conclusory statements”., for which relief can be granted in at State court of WA, for unfairness, discrimination, discriminatory intent /motive, a continued pattern of such intent or motive, by the defendants.**II. Reply to**

**Response to Assignment Of Error:**Per Page 3 of’ U.S.C code”: Golden v. CH2M Hill Hanford

Group, Inc., CV-04-5076-LRS, 2008 WL 4092920 (E.D. Wash. Aug. 27, 2008)”- Plaintiffs reassert the claim that the trial court’s holding with reason and evidence don’t support that it was a holding of LAW. For the reasons, stated earlier in regards to prevailing statute of limitation, clearly stated statement of claims and hypothetical claims with reasons, discernible logic , evidence , using legal procedure in “statement of claim”: Inference, Rules, Analysis and Conclusion(IRAC), to meet “legal sufficiency” for each claim , and for holding on to*Smith v. Shannon 1983; Ridgewater Props v. Starbuck 1982*.**III. Reply to Issues Pertaining To assignment of Error-**The tolling period of Statue of limitation(*in above, II & page 3 U.S.C*)retain the limitation period, to re-file when a pendant case is dismissed without prejudice in federal court. (A). Plaintiff states ,all claims have valid grounds and are clearly stated claim of violations by defendants under WA State’s LAD, described in the opening brief.(B)**Reply To Statement Of The Case- Reply to Procedural History:**The Plaintiff refers to his opening brief in restating that -By the TIME the Hon. Judge Martinez filed his Motion in Order on Sept 16, 2011, the plaintiff had amended his Pendant case to waive title VII claim since he understood a 300 day statue’s limitation for such claim passed and per verification of EEOC intake manager Meijo Ong, he filed the case on Jul 6<sup>th</sup> 2011, which was still within limitation period to file a civil law suite of discrimination, in WA State’s; superior court. Infact, although the Hon Judge did not realize that superior court’s amended complaint hadnot been transmitted to him, he indeed realized that the “case on hand”, “rising possibility of claims with “a pattern” of unlawful termination , for which relief can be granted in a state court, to move to amend, the order WITHOUT PREJUDICE for a re-file. At this very moment he Hon. Judge realized that it wasnot the intent of the plaintiff to state federal claims in his pleadings. He also realized that, the plaintiff, in his

federal case, in response to motion to dismiss stated claims under RCW 49.60 and associated RCW and WAC relevant to his intention, of pursuing the case in WA State's superior court. As plaintiff was not legal minded and was unaware of Employment laws, as he was unable to retain an attorney, while unemployed after termination from Boeing, bit by bit, he followed the procedure to file compliant to EEOC to initiate pleadings for identification of pattern(1)of statement of claim. In fact EEOC compliant filing is not "necessary for Claims under WA State's law against discrimination", it is required for Title VII claims at federal court. The trial court erred in determination and acknowledging this fact, Per Page 3 of U.S.C code : Golden v. CH2M Hill Hanford Group, Inc.,(a)The above U.S.C code allows and tolls statutes limitation for this prevailing case, as a result the case does not have "an insuperable bar towards relief."(b)All statement of claims was stated under WA State's LAD. Plaintiff claims that Trial court erred in identifying and recognizing statement of claims, hypothetical claims and "possibility of a claim that could have been sufficient to deny CR12(b)(6), when pattern(s);(at least two identified)of claim or hypothetical claim pattern had been acknowledge by Hon Judge Martinez, in federal court , for which relief "can be granted in WA State's state court".(c)The plaintiff contest trial court's decision in his Appeal brief for a judicial case review by a panel of judges at Division I. By Amended Order, in Page 24,(i) ,of opening brief, Plaintiff indicated the second order signed by Hon Judge for Trial court's ruling filed on Dec 1, 2011- which Plaintiff claims as "unlawful". **V Reply to Factual Statements:**The depiction of this section by the defendants is incorrect, un-true and maneuvered to rightfully present, unfair with unfair intent or motive and "contrary to the fact" for the following reasons:- Shaw Rahman, began his employment at Boeing company as a Domain Project manager, at SnS domain. During his unlawful termination *He was a consultant since 2005 in other domains.*

and suspension, Shaw was a pendent candidate for a Manager Role at Business Intelligence, Boeing Technology, when defendants unlawfully suspended and terminated him by discriminating him from possible career advancement and pendent decisions of his interview. He had been nominated “Boeing Pride Twice , once during his employment period in question. As the employment was not based on a tenure track, the usage of the word “tenure” is maneuvered by the defendants.. The corrective action memo clearly states that “ No Previous Active corrective Actions related to this violation category”, NO “behavioral memo was found” that was issued by Boeing Company for a behavior that is contrary to employment standards at Boeing Company, Which clearly shows that “ a behavioral concern” portrayed by the Defendants is a mere fabrication to discriminate Shaw from potential career progress. The defendants falsely depicts that Shaw “had not contacted a back-up manager to advice, of his absence(s)” [Note]. This is contrary to the fact because, only the very first day Shaw requested his colleague Norris Harper, to convey of his sickness and flu to Kate Fournier that Shaw will be absent that day so that Kat Fournier can , as usual, let everyone in SnS domain know that Shaw will be amongst the absentee. Kat Fournier, Domain Finance manager and Kari Fogelman’s back up , coordinated and sent email to all in SnS domain, to inform, who was out of office and who was in the office or traveling. That was the only [one] occasion that Shaw Rahman was not able to communicate directly to Kari Fogelman or her backup as he did not have her contact on an unexpected flu contraction. Except for that day, Shaw Called Kari Fogelman ‘s back up or Kari Fogelman directly, at the beginning of work day, while he was infected with viral flu, from workplace unhealthy work environment at Boeing, that Kari Fogelman did not disclose to himearlier that, the work place environment had deteriorated. In fact, Shaw contracted Flu from working with Andrew Wright right after Andrew attended office still congested with viral flu,

that Andrew Wright had contracted as biological agent, from his visiting overseas. Exhibit provided earlier along with opening brief that proximity while working with Andrew Wright is the cause of Shaw's sickly condition with viral flu for which he took sick leave. "Sick Leave" thus is allowable under WA State law. Plaintiff kept record of his relevant calls to his superior Kari Fogelman and her back up, as Boeing Refused to produce call records from his company cell phone to Kari Fogelman (herself) and her backup Trina Goering or Kat Fournier. Plaintiff was informed, unless there is law suit against the company, the call records will not be available, when Shaw requested the records to HR for his cell phone call records from investigator (exhibit Sub No: 16C, Case 2:11-cv-01338-RSM, Document 7, Page 34-37). The first sick day call to colleague Norris Harper to convey to Kat Fournier about Shaw's Absence from SnS domain, for that work day is, in fact, "reasonable per company rule" because the plaintiff informed his EMPLOYER BOEING that he is suffering and sick to attend work with flu, even though on that very occasion he was unable to contact Kari Fogelman or her backup directly for not knowing their phone number off hand, but DID convey thru Former Domain Project Manager Norris Harper to Boeing, as Shaw had Norris Harper's number memorized, while working with him every day, while taking over responsibility from Norris. Shaw was never given or shown SIP&T guideline class to refer to, any company sites where the rules were described, nor he is aware of existence of such website, by his supervisors Kari Fogelman or Boeing Management, Shaw acted based "on reason and reasonable responsibility" to keep his employer informed of his sickness everyday he was sick, till he recuperated, before he was given corrective action memos that states SIP&T guideline violation on returning to work. This is not a reasonable behavior of an employer and the employer has caused "unfairness against Shaw from others who shared Plaintiff's protected characteristics", while sick leave was protected under relevant

RCW. (2). Shaw was within his scope of employment as described in opening brief and acted within all necessary requirements that was negotiated at the beginning of employment with his supervisor Kari Fogelman, EVEN the delegation took place in an official manner, per her approval, in a formal meeting with confirmation of the delegate Hillary Okrent-Grilley, that she was approved to receive task in consideration, to be delegated. Kari Fogelman approved this delegation because Delegate Hillary Okrent-Grilley had fewer hours to meet 40 hours weekly billable hours as required to maintain a fulltime permanent employment and that the delegated tasks were less technical in nature. We hold the reasoning based on *Smith v. Shannon 1983*; *Ridgewater Props v. Starbuck 1982*- that this delegation was “appropriately conducted” and did not violate SIP&T guideline, State or Federal law or local rules which defendants’, at present, are continually trying to falsely portray, illegally. Thus, again, with reason and substantial evidence the plaintiff proves that “unfairness against Shaw from others who shared Plaintiff’s protected characteristics”, had been committed by Kari Fogelman and Defendants, in a pattern. **Reply to Page 5 of the defendant response:** Defendants falsified illegally in suspension memo stating below, as unfair treatment toward Shaw: (1) Failure to follow management directions by the Plaintiff- when both memos regarding “delegation and sick absence(s)” were maneuvered by the defendants deliberately, illegally and unlawfully, to portray that Shaw was non-compliant with the SIP&T guidelines. Exhibits provided in opening brief. (2) Suspension memo was maneuvered by Kari Fogelman when she had written untrue statement regarding Shaw’s Statement of Work, and included SOW which was Andrew Wright’s SOW, with additional HLI deliverable which were not Shaw’s Statement of Work, for him to sign and accept as if, he has agreement with her that those were Shaw’s SOW and Shaw didn’t comply, -She did so to forcefully, unlawfully to suspend Shaw. We hold to show,

an continuing pattern of falsification lie and maneuvering of the company record, continually prevailed, in the hostile work environment at SnS Domain for the plaintiff that clearly demonstrate in front of the audience that “unfairness against Shaw from others who shared Plaintiff’s protected characteristics” was “indeed” a continuing pattern by the defendants , which started on 4/25/2008 per evidence. Shaw was preemptively told and forced to sign falsified suspension memo which also included Statement of Work which were not Shaw’s Statement of Work and were illegally placed into the suspension memo for Shaw, to accept by Signing, by Larry P Little, who preemptively stated “ What , Sing, Sing it” and by Kimberly Trulson who stated unless Shaw Accepted by signing it, a copy will not be provided and the collaborators Kari Fogelman, Kimberly Trulson Ken Naethe and Larry P Little, will carry on suspension without signature and by force. Thus a forceful suspension and termination took place discriminating Shaw in violation of workplace LAD. Thus, we reassert, that an illegal act of “unfairness or such pattern against Shaw” was committed by the defendants, by unlawfully perpetrating, acts of discrimination in a pattern starting on 4/25/2008 that caused “constructive discharge” . The suspension memo has not been produced by Boeing with a Statement From Kimberly Trulson that “Unless There is a subpoena [illegal] suspension memo will not be provided.” In fact, there were no suspension notice provided to Shaw which is also “unfairness against Shaw” “ from others who shared Plaintiff’s protected characteristics”. As Shaw reviewed the first page of the suspension memo asking it from Kimberly Trulson, he stated he was not able to understand for what [reasonable] reasons he was getting these suspension memos, when he was being interviewed for Managerial roles at Boeing and “people from far away know about his good work”. Larry P Little preemptively [pattern 2, *Id-ed* in federal court] threatening responded “What , Sing, Sing it”. Just prior to that he started Addressing Shaw As

“Mohammad, Mohammad” to portray him as a “Muslim” calling his Muslim name to instigate the suspension attending defendants with post 9/11 emotions, EVEN though Plaintiff’s preferred name was ShaRahman (“shaw” explained in opening brief) which had been shown in his Boeing Badge, and the defendants earlier in all other occasions address him as Sha. At suspension meeting, Ken Naethe Stated that Russ Jones stated to him, that the “plaintiff should have been fired a long time ago”. For what lawful reason that pertains to Shaw’s SOW Russ Jones stated such hostile statement, to instigate defendants and create hostile, work environment, bears no legal justification other than continuing on with “unfairness against Shaw” with an intent of, hostility and unfair treatment. Thus a pattern of “unfairness against Shaw” was continually prevailing committed by defendants “from others who shared Plaintiff’s protected characteristics”. All of the defendants were Caucasian. Plaintiff claims defendants continually committed “unfairness against him in the form of discrimination in a collaborative manner among themselves because he was evidently a person of different national origin, and belonged to a protected category in race, for no valid lawful reason. Unfairness towards Shaw, in the form of discrimination or discriminatory acts, also took place on 4/25/2008 per Page 5 of the opening brief, with termination resulting from forceful constructive discharge by the employer. (1) Denying to sign falsified suspension memo under coercive, abusive & threatening behavior by Boeing defendants and their collaborators, indicated earlier, for no valid lawful reason. (2) Denial to accept (1), --simply cannot be a “concern about behavior” to “a fair minded person of the truth of declared premise”. Smith v. Shannon 1983; Ridgewater Props v. Starbuck 1982. In fact singing these unlawful memos would have placed the plaintiff in violation, by him, for accepting task responsibility which were not EVEN his Statement of Work, negotiated at the beginning of the employment, with his supervisor Kari Fogelman. Each capability implicates involvement of number of

corporate resources and funds which were not his SOW, at the beginning of employment with his supervisor and which were Andrew Wright's SOW, not plaintiffs. When Shaw requested for Training of tools: DELMIA & CATIA which were interfacing tools with manufacturing systems from Parts information system, and were essential tools to have knowledge to understand integration between manufacturing data and Parts data, to be involved as Project manager for SOW of Su 5.21 related capability, Shaw was denied training by Kari Fogelman, ALTHOUGH, unfairly this task (patterns for a HLI task also) was put in his suspension memo, as if, that was to be the Plaintiff's SOW when, in Fact, that was Andrew Wright's incomplete SOW for ongoing two years, as a project manager. Thus another unlawful act of "unfairness against Shaw" was demonstrated by the defendants. The burden of proof to produce these evidence is on the Defendants. Thus there is "no legitimate behavioral concern" that can be identified in the Plaintiff in his refusal to accept untruthfully written corrective action and suspension memos, that the plaintiff could, in his barest cognizable sense, recognize a "valid behavioral concern". In fact it was illegal & unlawful strategic maneuver, by the defendants to terminate Shaw, with continuing "unfairness demonstrated against him" in violation of LAD under protected category. In fact the plaintiff cannot, as "a fair minded person of the truth of declared premise". Smith v. Shannon 1983; Ridge water Props v. Starbuck 1982, accept by signing, these falsified, maneuvered and untruthful memos and illegal acts of "unfairness against him", by the defendants, BUT retaliate lawfully for Justice against Discrimination, clearly present in acts or actions and behavior of the defendants, taking LAD as a MEANS. Plaintiff also claims that accepting such unethical & illegal act, by signing this untruthful memo goes against his moral and religious belief as wrongdoing or wrongful act holding on to WAC 192-150-140: 2(a),(b),(c),(d),(e). As the plaintiff was away in his permanent residence, while on suspension, whose mailing address was

listed in Boeing Blue page and email address provided to Boeing HR, along with telephone number, Plaintiff received no messages from Boeing company in any of these communication paths or mediums, to receive memos where it stated Plaintiff needed to make appointment, for any “behavioral concern” which could be legally justified. Also to note a “RECORD of his sickness existed in emails and phone calls” to Boeing management, as stated earlier in the opening brief. Plaintiff contests Boeing defendants’ stating of, unfound “behavioral concern” in him, and called upon Kimberly Trulson asking for untruthful Suspension memo from her, a copy of which she refused to provide to Shaw, unless there is subpoena. Thus burden of proof is appropriately placed on defendants for these documents. Shaw was not able to set up appointment to an impartial independent medical reviewer (IMR) and there was no opportunity provided for such medical review by Defendants, for any “valid behavior concern” what so ever in Shaw. Thus failure to convey memo appropriately, according to Standard HR policy, failure to provide options to allow to make appointment to a third party independent medical reviewer (IMR), and fabricating unfound and untruthful behavioral concern in, “a fair minded person of the truth of declared premise” . Smith v. Shannon 1983; Ridgewater Props v. Starbuck 1982, added to “a prevailing continuation pattern of unlawful act of unfairness against Shaw”, by the defendants, Clearly Defining Discrimination Under LAD (RCW 49.60).- which went well into the limitation period. After Shaw called Kim Trulson, she communicated to him that decisions had been made to uphold [illegal] termination closing all doors of possibility of a third party IMR. Thus “insubordination” which is stipulated on making an appointment while Shaw was away and when he was told not to contact Boeing while suspension was in effect, do not constitute a ground of “insubordination” or misconduct, under continuing acts of “unfairness against Shaw”, the Plaintiff. Shaw didn’t receive any telephone call, email

either. In fact all doors for a fair IMR was closed by defendants. Also it has to be noted that the defendants did not give any notice to Plaintiff that he would be suspended prior to the meeting which is a HR policy, described earlier. As plaintiff did not know employment law or had knowledge of such he stated his complaint to EEOC to help him identify and provide statement of claim to pursue justice. EEOC provided statement of claim "adding title VII claim" and closed possibility of federal claim under Title VII as he exceeded time for a federal claim under title VII; but issued "right to sue on request", to establish and justify merit. The plaintiff followed procedure to write to EEOC, even though he was unable to state a claim within 300 days, because of unemployment elapsed time while job search, and for no procedural knowledge in civil action, as he was unable to retain a counsel for this burden that has been drawn on him, as an imperative task for his damages, under the commission's chapter(s) of LAD. Statue of limitation pertaining this re-file is explained earlier. **ARGUMENTS A:** In fact there is sufficient facts with evidence exist, that draw the conclusion that the trial court erred in dismissing the case under CR 12(b)(6), when the complaint was within the legitimate time frame described in statues of limitation for a re-file "Stated earlier in page 3 Golden v. CH2M Hill Hanford Group, Inc. **ARGUMENTS B:** The re-filed complaint is not deficient as it was supported with factual evidence, statement of claims, hypothetical claimsto pursue justice, using legal procedure, with evidence. Defendants erroneously state a 9th Cir court of Appeal case in their reply brief: page 9, that contained argument whether and if a title VII claim were to be re-filed by Shaw at 9th Cir Court of Appeal, after the statute of limitation expired for such claim. In this instance plaintiff waives his title VII claim and pursues justice under LAD, in WA State's Superior Court, within tolling period of Statue of limitation. The plaintiff states all his State claims under RCWs with evidence,

\* For Trial Court: Submitted on 11/11/2014 : Note For Motion Rocket  
statement of facts and hypothetical claims[at least two identified earlier ;EXHIBIT\*]  
Code : 11-2-35677 SEA

reciting using Inference, Rule, Analysis and Conclusion (IRAC) to” fully meet the legal sufficiency in stating claims, as plausible claims,under protect category, cognizable to , “a fair minded person of the truth of declared premise” . *Smith v. Shannon 1983; Ridgewater Props v. Starbuck 1982*- Thus the statement claims contain and “embody legitimate elements” in their relevant cause of action and are not legally insufficient or deficient.**ARGUMENTS C:**The plaintiff states at the beginning of this response the definition and statement of discrimination and discriminatory act. He relies, for the definition of the statements and how it is to be perceived by,on “a fair minded person of the truth of declared premise”. *Smith v. Shannon 1983; Ridgewater Props v. Starbuck 1982*.The claims of discrimination are actionable under the relief of each claim, per LAD of WA State in protected category.While Shaw was sick with flu, the plaintiff,alsohad updatedprojectstatus report at night for the next day, being proactive and helpful person, when he felt better at night, while he had VPN access (Boeing VPN log will assert that). Thus the first incident of informing the employerBoeing ofPlaintiff’s sickness was through a fellow colleague Norris Harper – and is reasonable.Shaw was clearly discriminated from sick leave when Kari Fogelman, who deliberately portrayed, in contrary to fact, that, the Plaintiff didn’t notify his supervisor or her back up according to guidelines set forth by SIP&T for absence(s) [Note], also defendants indicated Plaintiffs sick time absences as“disruptive behavior “to deny his unemployment benefit, on the ground of fabricated and lied “misconduct”,absent in Plaintiff.In fact, defendants failure to STOP willful, intentionaldiscrimination and discriminatory intent with wanton,disregard of the plaintiffs employment rights, at workplace, with defendants dishonesty, and deliberate act of instigative nature which were hostile and unfair towards Plaintiff, along withviolation of companyrules whenthe rules were reasonable , in

collaboration among themselves, demonstrating flagrant and wanton disregard, for the right, title or equal career opportunity of the Plaintiff, continuation of such acts, starting much earlier and beyond termination, with no action or intent taken to stop discrimination and discriminatory acts even after informing Boeing HR, extended the severity of the claim, as gross misconduct by the defendants, when they acted against plaintiff, in violation of protected category of rights preserved under LAD: race, religion, national origin, "was not Time barred." along with plaintiffs' retaliation - The plaintiff holds on to *Goodman v. Boeing Co, 1995*. Contrary to statement in the final paragraph of reply brief of the defendants, the plaintiff asserts numerous times, with facts, evidence, statement of claims and hypothetical claims, that defendants acted in discrimination thru their discriminatory acts and actions, that violate LAD. The plaintiff reasserts, all his pleading's claims and hypothetical claims, with consistency, all throughout this civil action and within its SCOPE, with the application of the case law, LAD and with *Smith v. Shannon 1983; Ridgewater Props v. Starbuck 1982*. **JUSTICE SOUGHT:** Given the gravity of the complaint and evidence, fact and statement of claims along with hypothetical claims, it is clear and beyond the reason of a doubt that the trial court erred in granting a CR12(b)(6) and the decision was not Lawful. Plaintiff seeks justice to the court of appeal, per his dissenting remarks in the opening brief, to deny dismissal in the reply brief of the defendants, because it is

legally insufficient, deficient under *iqbal & Twombly; Smith v. Shannon 1983; Ridgewater Props v. Starbuck 1982*, towards justice. Thus in the absence of deliberate decline to submit evidence, the defendants' reply brief simply fails [flexible in standards] to comply legal procedure IRAC, "insufficient (R) of fair(ness)/treatment of RCW, thus deficient in complying with (A) analysis, to draw (C) onclusion, is a mere conclusory statement, that doesn't suffice the "pursuit of truth of the Declared Premise & be denied. Appendix I included: Pro Se Plaintiff, Shaw Rahman. *Mr. Muelke Rehnke*

*and/or,*  
*\* along with Exhibit Motion to Dismiss Page 5;*  
*line 23*  
*\* Core # 11-2-35277 SEA -24*

appendix 1

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## Project Mgmt Spec 4

Requisition Number: 07-1023079

Job Status: Activated - Posting Type: Posted Internally and Externally - Posting Status: Available



**Location**

Everett, WA

**Virtual Office/Telecommute?**

Virtual Work Not Available

**(Things you should know about Virtual Office)**

**Shift**

First

**Business Unit**

Commercial Airplanes

**Division**

Bca Operations

**Program**

787 Program

**Occupation Title**

Program Management

<b>Skills Management Title</b>	Engrg&Sci Project Mgmt
<b>Job Classification</b>	WAMWP4
<b>Job Type</b>	Non-Management
<b>Experience Level</b>	Mid Level (5-15 years of experience)
<b>Exemption Status</b>	Exempt
<b>Union</b>	No
<b>Security Clearance Required? (Security Clearance definitions)</b>	No Security Clearance Required
<b>Work Eligibility Required?</b>	Yes
<b>US Person Status Required?</b>	Yes
<b>Export Control Required?</b>	Yes
<b>Relocation Money Available?</b>	No
<b>Date Posted</b>	09/27/2007
<b>Closing Date (Things you should know about closing dates)</b>	10/10/2007

P3e  
WBS  
Recommend  
status update  
to leadership &  
stake holders

#### Position Description

Project management position in support of the 787 Support and Services Domain team. Lead and coordinate P3e schedule development with several domain project teams to ensure completion of project requirements. Lead and direct project scheduling phases and act as primary contact on multiple, cross-organizational projects schedules; develop processes and standards for WBS creation and project schedules development through the levels of project maturity. Ensure completion of project objectives, assemble recommendations from project teams and provide status updates to leadership and stakeholders. Lead negotiations with project participants and stakeholders on development of complex and integrated project schedules. Research lessons learned, best practices, risk assessments and trends. Develop and apply processes for earned value analysis as a foundation for base-line plans. Consolidate information to understand project impacts and develop appropriate schedules, plans and risk mitigation. Review and implement metrics, integrating project information and advise decision makers. This position works under minimal supervision and individuals will be expected to schedule and plan own work assignments, as well as lead others, along with coaching and mentoring others. Individuals will also be expected to strive for continuous improvements to project scheduling processes and business systems that support project managers and Domain management. Skilled and effective practitioners including team leadership role and interaction with multiple levels of management. Employee's span of influence is mainly within their own business unit. Work cross-functionally across organizations, including occasional coordination with non-Boeing partners throughout the value stream. Develops and delivers educational materials for the skill base and promotes education within the skill among peers. Employee assists in activity related to project management process, procedure and system definition and maintenance.

Employee understands organizational strategy and company initiatives related to assigned tasks.

Continuous Improvement: Consistently and proactively reviews complex and/or specialized processes to identify gaps between requirements and current outputs within own work group, throughout the organization, and with external customers. Identifies potential conditions that contribute to gaps or key variances; explores complex relationships between conditions and effects; distinguishes causes from symptoms and identifies primary causes. Consistently and proactively generate ideas for solutions; analyzes the effect or impact of each solution; selects appropriate solutions; tests solutions; and gathers feedback from fellow project leads, intern employees and external customers on effectiveness.

Decision making: recognize and identify a variety of issues or opportunities and determine whether action is needed. Create relevant options for addressing problems/opportunities and achieving desired outcomes.

Collaboration: work effectively and cooperatively with fellow work group members; place higher priority on work group goals rather than on own goals; offer to help other employees when they need assistance.

Project Leadership: demonstrate ability to accept and perform responsibilities and work assigned tasks as a project team member in support of the overall project.

Project Schedule & Resource Management: ability to create simple project schedules which identify time frames for project milestones, update more complex project schedules developed by others; seek assistance or recommendations from others.

Systems Thinking: gain understanding of job tasks and processes and how they contribute to meeting work group objective(s); identify non-value added tasks and alerts more experienced employees for possible improvements.

Communication: listen effectively; clarify meaning for others; able to communicate with a diverse audience.

Typical Educ/Exper: Bachelor's degree and 10 to 14 years' related work experience, a Master's degree and 10 to 12 years' related work experience or an equivalent combination of education and experience. Preferred Target: Bachelors Degree in Project Management and Masters Certificate in Project Management

Work location is in Everett, but may be required to travel throughout Puget Sound area. In addition, must be competent and have working knowledge of project management specific software and concepts P3e (Primavera Enterprise scheduling software), Cost, Schedule, Planning & Reporting (CSPR). CMI, PMP or Project Management Certificate a plus.

### Competencies

### Education and/or Experience

### Other Job related information

\*\*\* Please note that depending on the specific position, you may be required to pass additional medical tests, credit checks, and/or other requirements. These additional items are required for the Company to comply with various laws and regulatory rules.\*\*\*

Every job requisition has specific and unique requirements listed under 'Description', 'Competencies', and 'Education'. Applicants will increase their opportunities for consideration by demonstrating compatibility with these requirements in their resumes.

The job specifications - including competencies (knowledge, skills, abilities, and other characteristics), job-relevant work experience, education, and other requirements described in this requisition - will be the basis for applicant screening, including resume reviews, structured interviews and any other assessments used to support the hiring decision. All candidates considered for this position may be required to participate in a structured interview. The structured interview is a standardized method of evaluating candidates' job-related competencies to support an objective selection and promotion process.

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# Ashcroft v. Iqbal

From Wikipedia, the free encyclopedia

*Ashcroft v. Iqbal*, 556 U.S. \_\_\_\_, 129 S.Ct. 1937 (2009), was a case in which the United States Supreme Court held that top government officials were not liable for the actions of their subordinates absent evidence that they ordered the allegedly discriminatory activity.

At issue was whether current and former federal officials, including FBI Director Robert Mueller and former United States Attorney General John Ashcroft, were entitled to qualified immunity against an allegation that they knew of or condoned racial and religious discrimination against individuals detained after of the September 11 attacks.<sup>[1]</sup>

## Contents

- 1 Facts
- 2 Decision by the U.S. Supreme Court
- 3 Souter's dissent
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## Facts

Javad Iqbal, an Iranian-American cable television installer from

Hicksville, New York,<sup>[2]</sup> was arrested in New York in November 2001, on charges of conspiracy to defraud the United States and fraud in relation to identification documents (violations of 18 U.S.C. §§ 371 and 1028) and placed in pretrial detention at the Metropolitan Detention Center in Brooklyn, New York.<sup>[3]</sup> He alleged that FBI officials carried out a discriminatory policy by designating him as a person "of high interest" in the investigation of the September 11 attacks solely because of his race, religion, or national origin. Owing to this designation he was placed in the detention center's Administrative Maximum Special Housing Unit for over six months while awaiting the fraud trial. Iqbal claimed that on the day he was transferred to the special unit, prison guards, without provocation, "picked him up and

## Ashcroft v. Iqbal



Supreme Court of the United States

Argued December 10, 2008

Decided May 18, 2009

**Full case name** *John D. Ashcroft, former Attorney General, et al., Petitioners v. Javaid Iqbal, et al.*

**Docket nos.** 07-1015 (<http://www.supremecourt.gov/Search.aspx?FileName=/docketfiles/07-1015.htm>)

**Citations** 556 U.S. \_\_; 129 S.Ct. 1937

**Prior history** *dismissal denied* 2005 WL 2375202 (E.D.N.Y., 2005), *upheld* 490 F. 3d 143 (2nd. Cir.), *Reversed and remanded* U.S.

**Argument** Oral argument ([http://static.oyez.org/sites/default/files/audio/cases/2008/07-1015\\_20081210-argument.mp3](http://static.oyez.org/sites/default/files/audio/cases/2008/07-1015_20081210-argument.mp3))

### Holding

Top government officials are not liable for the actions of their subordinates absent evidence that they ordered the allegedly discriminatory activity.

### Court membership

**Chief Justice**

**Associate Justices**

### Case opinions

**Majority** Kennedy, joined by Roberts, Scalia, Thomas, Alito

**Dissent** Souter, joined by Stevens, Ginsburg, Breyer

**Dissent** Breyer

## Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

## SUPREME COURT OF THE UNITED STATES

## Syllabus

ASHCROFT, FORMER ATTORNEY GENERAL, ET AL. v.  
IQBAL ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR  
THE SECOND CIRCUIT

No. 07–1015. Argued December 10, 2008—Decided May 18, 2009

Following the September 11, 2001, terrorist attacks, respondent Iqbal, a Pakistani Muslim, was arrested on criminal charges and detained by federal officials under restrictive conditions. Iqbal filed a *Bivens* action against numerous federal officials, including petitioner Ashcroft, the former Attorney General, and petitioner Mueller, the Director of the Federal Bureau of Investigation (FBI). See *Bivens v. Six Unknown Fed. Narcotics Agents*, 403 U. S. 388. The complaint alleged, *inter alia*, that petitioners designated Iqbal a person “of high interest” on account of his race, religion, or national origin, in contravention of the First and Fifth Amendments; that the FBI, under Mueller’s direction, arrested and detained thousands of Arab Muslim men as part of its September-11th investigation; that petitioners knew of, condoned, and willfully and maliciously agreed to subject Iqbal to harsh conditions of confinement as a matter of policy, solely on account of the prohibited factors and for no legitimate penological interest; and that Ashcroft was the policy’s “principal architect” and Mueller was “instrumental” in its adoption and execution. After the District Court denied petitioners’ motion to dismiss on qualified-immunity grounds, they invoked the collateral order doctrine to file an interlocutory appeal in the Second Circuit. Affirming, that court assumed without discussion that it had jurisdiction and focused on the standard set forth in *Bell Atlantic Corp. v. Twombly*, 550 U. S. 544, for evaluating whether a complaint is sufficient to survive a motion to dismiss. Concluding that *Twombly*’s “flexible plausibility standard” obliging a pleader to amplify a claim with factual allegations where necessary to render it plausible was inapplicable in the context of petitioners’ appeal, the court held that Iqbal’s complaint

Note:

Shaw Rahman,

(Plaintiff, is not  
of the same  
national origin  
either.)

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was adequate to allege petitioners' personal involvement in discriminatory decisions which, if true, violated clearly established constitutional law.

*Held:*

1. The Second Circuit had subject-matter jurisdiction to affirm the District Court's order denying petitioners' motion to dismiss. Pp. 6–10.

(a) Denial of a qualified-immunity claim can fall within the narrow class of prejudgment orders reviewable under the collateral-order doctrine so long as the order “turns on an issue of law.” *Mitchell v. Forsyth*, 472 U. S. 511, 530. The doctrine's applicability in this context is well established; an order rejecting qualified immunity at the motion-to-dismiss stage is a “final decision” under 28 U. S. C. §1291, which vests courts of appeals with “jurisdiction of appeals from all final decisions of the district courts.” *Behrens v. Pelletier*, 516 U. S. 299, 307. Pp. 7–8.

(b) Under these principles, the Court of Appeals had, and this Court has, jurisdiction over the District Court's order. Because the order turned on an issue of law and rejected the qualified-immunity defense, it was a final decision “subject to immediate appeal.” *Behrens, supra*, at 307. Pp. 8–10.

2. Iqbal's complaint fails to plead sufficient facts to state a claim for purposeful and unlawful discrimination. Pp. 11–23.

(a) This Court assumes, without deciding, that Iqbal's First Amendment claim is actionable in a *Bivens* action, see *Hartman v. Moore*, 547 U. S. 250, 254, n. 2. Because vicarious liability is inapplicable to *Bivens* and §1983 suits, see, e.g., *Monell v. New York City Dept. of Social Servs.*, 436 U. S. 658, 691, the plaintiff in a suit such as the present one must plead that each Government-official defendant, through his own individual actions, has violated the Constitution. Purposeful discrimination requires more than “intent as volition or intent as awareness of consequences”; it involves a decisionmaker's undertaking a course of action “because of,” not merely “in spite of,” [the action's] adverse effects upon an identifiable group.” *Personnel Administrator of Mass. v. Feeney*, 442 U. S. 256, 279. Iqbal must plead sufficient factual matter to show that petitioners adopted and implemented the detention policies at issue not for a neutral, investigative reason, but for the purpose of discriminating on account of race, religion, or national origin. Pp. 11–13.

✓ (b) Under Federal Rule of Civil Procedure 8(a)(2), a complaint must contain a “short and plain statement of the claim showing that the pleader is entitled to relief.” “[D]etailed factual allegations” are not required, *Twombly*, 550 U. S., at 555, but the Rule does call for sufficient factual matter, accepted as true, to “state a claim to relief

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that is plausible on its face,” *id.*, at 570. A claim has facial plausibility when the pleaded factual content allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged. *Id.*, at 556. Two working principles underlie *Twombly*. First, the tenet that a court must accept a complaint’s allegations as true is inapplicable to threadbare recitals of a cause of action’s elements, supported by mere conclusory statements. *Id.*, at 555. Second, determining whether a complaint states a plausible claim is context-specific, requiring the reviewing court to draw on its experience and common sense. *Id.*, at 556. A court considering a motion to dismiss may begin by identifying allegations that, because they are mere conclusions, are not entitled to the assumption of truth. While legal conclusions can provide the complaint’s framework, they must be supported by factual allegations. When there are well-pleaded factual allegations, a court should assume their veracity and then determine whether they plausibly give rise to an entitlement to relief. Pp. 13–16.

(c) Iqbal’s pleadings do not comply with Rule 8 under *Twombly*. Several of his allegations—that petitioners agreed to subject him to harsh conditions as a matter of policy, solely on account of discriminatory factors and for no legitimate penological interest; that Ashcroft was that policy’s “principal architect”; and that Mueller was “instrumental” in its adoption and execution—are conclusory and not entitled to be assumed true. Moreover, the factual allegations that the FBI, under Mueller, arrested and detained thousands of Arab Muslim men, and that he and Ashcroft approved the detention policy, do not plausibly suggest that petitioners purposefully discriminated on prohibited grounds. Given that the September 11 attacks were perpetrated by Arab Muslims, it is not surprising that a legitimate policy directing law enforcement to arrest and detain individuals because of their suspected link to the attacks would produce a disparate, incidental impact on Arab Muslims, even though the policy’s purpose was to target neither Arabs nor Muslims. Even if the complaint’s well-pleaded facts gave rise to a plausible inference that Iqbal’s arrest was the result of unconstitutional discrimination, that inference alone would not entitle him to relief: His claims against petitioners rest solely on their ostensible policy of holding detainees categorized as “of high interest,” but the complaint does not contain facts plausibly showing that their policy was based on discriminatory factors. Pp. 16–20.

(d) Three of Iqbal’s arguments are rejected. Pp. 20–23.

(i) His claim that *Twombly* should be limited to its antitrust context is not supported by that case or the Federal Rules. Because *Twombly* interpreted and applied Rule 8, which in turn governs the

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pleading standard “in all civil actions,” Rule 1, the case applies to antitrust and discrimination suits alike, see 550 U. S., at 555–556, and n. 14. P. 20.

(ii) Rule 8’s pleading requirements need not be relaxed based on the Second Circuit’s instruction that the District Court cabin discovery to preserve petitioners’ qualified-immunity defense in anticipation of a summary judgment motion. The question presented by a motion to dismiss for insufficient pleadings does not turn on the controls placed on the discovery process. *Twombly, supra*, at 559. And because Iqbal’s complaint is deficient under Rule 8, he is not entitled to discovery, cabined or otherwise. Pp. 20–22.

(iii) Rule 9(b)—which requires particularity when pleading “fraud or mistake” but allows “other conditions of a person’s mind [to] be alleged generally”—does not require courts to credit a complaint’s conclusory statements without reference to its factual context. Rule 9 merely excuses a party from pleading discriminatory intent under an elevated pleading standard. It does not give him license to evade Rule 8’s less rigid, though still operative, strictures. Pp. 22–23.

(e) The Second Circuit should decide in the first instance whether to remand to the District Court to allow Iqbal to seek leave to amend his deficient complaint. P. 23.

490 F. 3d 143, reversed and remanded.

KENNEDY, J., delivered the opinion of the Court, in which ROBERTS, C. J., and SCALIA, THOMAS, and ALITO, JJ., joined. SOUTER, J., filed a dissenting opinion, in which STEVENS, GINSBURG, and BREYER, JJ., joined. BREYER, J., filed a dissenting opinion.

Case # 68134-6

**CERTIFICATE OF SERVICE**

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The undersigned hereby certifies on the 21st of May, 2012, caused a true and correct copy of the foregoing document to be served on <sup>defendants</sup> via the method indicated:

Hannah Ard W>BA # 40362  
Riddie Williams P.S.  
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copy via mail  
copy via mail with certified return  
receipt requested

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct and that this declaration was executed on 21st of May 2012 at Seattle, Washington.

Md. Muskiye Rahman  
SHAW RAHMAN  
Prose, Plaintiff

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STATE OF WASHINGTON  
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